

# TEXAS

## CAMPAIGN FINANCE AND BALLOT MEASURE GUIDE

These resources are current as of 07/15/18. We do our best to periodically update these resources and welcome any comments or questions regarding new developments in the law. Please email us at [advocacy@afj.org](mailto:advocacy@afj.org).

### What's New in This Guide

The following changes/additions have been made since the previous version of this guide:

- ◆ Additional information on issue advocacy and express advocacy, under "[Communications](#)"
- ◆ Significant changes in corporate involvement in elections through direct campaign expenditures and 501(c)(4)s

This guide summarizes key aspects of laws and regulations governing campaign finance on the state level. The laws discussed in this publication apply to election activities surround candidates for statewide office. It is not intended to provide legal advice or to serve as a substitute for legal advice.

In some jurisdictions, city and/or county regulations may also apply to certain political activities. Check with the appropriate local jurisdiction before undertaking any activity.

## Table of Contents

- I. [Contribution Limits and Source Restrictions](#)
  - a. [Aggregate Limits](#)
  - b. [Restrictions on Contributions](#)
    - i. [Cash contributions](#)
    - ii. [Legislative session](#)
    - iii. [Judicial elections](#)
    - iv. [State capitol](#)
    - v. [Union and corporate ban](#)
    - vi. [In-kind contributions](#)
    - vii. [False name](#)
  - c. [Corporate Contributions](#)
- II. [Communications](#)
  - a. [Member Communications](#)
  - b. [Issue Advocacy vs. Express Advocacy](#)
  - c. [Electioneering Communications](#)
  - d. [Independent Expenditures \(“Direct Campaign Expenditures”\)](#)
    - i. [Corporations and labor unions](#)
    - ii. [Independent expenditure reporting requirements](#)
  - e. [Disclaimers](#)
    - i. [Political advertising](#)
    - ii. [Legislative advertising](#)
- III. [Coordination](#)
- IV. [Registration and Reporting Requirements](#)
  - a. [State PACs](#)
    - i. [Types of Texas PACs](#)
      - 1. [General Purpose PAC \(GPAC\)](#)
      - 2. [Specific Purpose PAC \(SPAC\)](#)
    - ii. [Registration of State PACs](#)
    - iii. [Reporting for State PACs](#)
  - b. [Out-of-State PACs](#)
    - i. [Registration of out-of-state PACs](#)
    - ii. [Reporting for out-of-state PACs](#)
  - c. [Texas PAC Administration](#)
  - d. [Termination](#)
- V. [Enforcement and Penalties](#)
- VI. [Ballot Measures](#)
- VII. [Contact Information for State and Local Agencies](#)

## CONTRIBUTION LIMITS AND SOURCE RESTRICTIONS

	To Candidates					To Committees		To Ballot Measures
	Governor	Other Statewide	Legislative	Municipal	Judicial	PACs	Parties	
<b>From:</b>								
Individuals	None	None*	None	**	Yes*	None	None	None
PACs	None	None*	None	**	No*	None	None	None
Corporations***	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Ballot Measure PACs only	***	Permitted, No Limit

\* Contribution limits apply to candidates for judicial office (and any specific-purpose committee that support those candidates), in the following amounts (aggregate per individual, per election cycle): \$5,000 for statewide judicial office; \$1,000 for judicial districts with population less than 250,000; \$2,500 for judicial districts with population from 250,000 to one million; and \$5,000 for judicial districts with populations greater than one million. There are no contribution limits to judicial candidates made by general purpose committees. The individual contribution and expenditure limits on judicial elections mentioned above apply to the combined primary and general elections in an election cycle if the candidate is unopposed in the primary or does not have a general election opponent. Law firms, including all related persons and the firm's PAC, may contribute up to \$30,000 to a statewide judicial candidate per election, and up to 6 times the applicable contribution limit for other judicial district races as specified above. ([TEX. ELECT. CODE §§ 253.155, 253.157, 253.1621](#)).

\*\* Several cities (including Austin, Dallas, Houston and San Antonio) have adopted contribution limits by local ordinance or charter. See section on [Contact Information for State and Local Agencies](#), below. No statewide laws apply contribution limits to municipal elections. Counties have no authority to adopt contribution limits.

\*\*\* See discussion below about different rules applicable to different types of corporate entities. Stricter rules apply to business and nonprofit corporations. Business corporations may contribute to political parties only for certain activities, including normal overhead, administrative and operating costs of the party, and the costs of a primary election or convention. ([TEX. ELECT. CODE §§ 253.104, 257.002](#)).

### Aggregate Limits

- There are no aggregate limits for individuals, other than for judicial candidates, as discussed above.

### Restrictions on Contributions

- Cash contributions – Cash contributions made to a candidate, officeholder, or [specific-purpose committee \(“SPAC”\)](#) from a single individual exceeding an aggregate \$100 per election cycle are prohibited. ([TEX. ELECT. CODE §253.033](#)).

- Legislative Session – Contributions made to a statewide officeholder, a member of the legislature, or a specific-purpose committee for supporting, opposing, or assisting a statewide officeholder or member of the legislature, are prohibited during the period starting 30 days before the start of regular biennial legislative session (early December of even numbered year), until twenty days after adjournment (June of odd numbered year). ([TEX. ELECT. CODE § 253.034](#))
  - While members of a legislative caucus may contribute to their respective caucuses without limitation, a person who is not a member of the caucus may not contribute to a caucus during the period starting 30 days before the start of the biennial legislative session until twenty days after adjournment. ([TEX. ELECT. CODE § 253.0341](#)).
  - Note that both statutes above refer to restrictions during the regular legislative session, and that there is no mention of similar restrictions on contributions during special sessions of the legislature called by the Texas Governor.
  
- Judicial Elections – In judicial elections, the campaign period for accepting contributions generally begins 210 days before a filing deadline (typically June of odd numbered year) and extends 120 days after either a primary election (March of even numbered year) or a contested general election (November of even numbered year). Exceptions may apply. ([TEX. ELECT. CODE §253.153](#)).
  - Members of a law firm and their families are restricted in some cases from contributing to judicial candidates after the firm and all members have contributed a certain amount. ([TEX. ELECT. CODE § 253.157](#)).
  
- State Capitol – Contributions are prohibited in the Texas State Capitol and courthouses. ([TEX. ELECT. CODE § 253.039](#)).
  
- In-Kind Contributions – In-kind contributions must be evaluated at fair market value and reported by a candidate or officeholder as contributions, unless they are \$50 or less in value and can then be aggregated for reporting purposes. ([1 TEX. ADMIN. CODE §§ 20.51, 20.52](#)).
  
- False name – A person may not knowingly make a political contribution in the name or on the behalf of another individual unless that person discloses his or her name and address in writing to both the recipient of the contribution and the person on whose behalf the contribution is being made. ([TEX. ELECT. CODE § 253.001](#)).

## **Corporate Activity in Elections**

Unions and corporations are prohibited from making political contributions to a candidate or officeholder, and also may not make political contributions in connection with a recall election. This includes the circulation and submission of a petition to call an election. A corporation may make contributions on a ballot measure election only to a PAC that exclusively supports or opposes measures. ([TEX. ELECT. CODE § 253.094](#), [TEX. ELECT. CODE § 253.096](#)).

- The definition of a corporation includes all incorporated nonprofits, for-profits, LLCs, and corporate entities. The only corporate structure that is not covered in the ban on contributions are partnerships of individuals where there are no corporate partners. ([TEX. ELECT. CODE § 253.091](#)).
- This prohibition also does not extend to non-incorporated associations.
- Corporations or unions may make expenditures to finance nonpartisan voter registration and get-out-the-vote campaigns. They may also create informational websites about candidates in election years as long as the website does not support or oppose any candidates. ([Texas Ethics Advisory Opinion 327](#))

## **Corporate PACs**

For-profit and nonprofit entities may individually create, sponsor, and administer a PAC, and may also join with other corporations to form a PAC. Funding sources for the PAC can include corporate dollars directly from the corporation(s) forming the PAC as well as individual contributions from shareholders or members (and their families). ([TEX. ELECT. CODE § 253.100](#))

However, only individual, non-corporate PAC contributions may be used to make donations to political candidates. While a corporation may contribute corporate dollars to a political party, a PAC may not accept corporate contributions and then send those corporate dollars to a political party. ([TEX. ELECT. CODE § 253.104](#); [Texas Ethics Advisory Opinion 527](#))

Corporate PAC dollars may only be used for the following purposes:

1. Maintenance and operation of the PAC (office supplies & equipment, legal fees, management & administration of the PAC)
2. Fundraising efforts for the PAC from the “solicitable class”, i.e. stockholders/members and employees of the corporation, as well as families of stockholders/member and employees. ([TEX. ELECT. CODE § 253.100\(B\)](#))
  - a. No other persons may be solicited to contribute to the PAC using corporate money. ([TEX. ELECT. CODE § 253.100](#)).
3. To make direct campaign expenditures (see below)

## Independent Expenditures (“Direct Campaign Expenditures”)

- There is no statutory definition of “independent expenditure.” However, the statute does include the term “direct campaign expenditure,” which is defined as “a campaign expenditure that does not constitute a campaign contribution by the person making the expenditure.”
- Independent Expenditure Reporting Requirements
  - Corporations and labor organizations are prohibited from making political contributions. ([TEX. ELECT. CODE § 253.094](#)) They *may* make unlimited direct campaign expenditures (i.e. independent expenditures) from corporate dollars but are subject to [reporting requirements](#) for any direct campaign expenditures over \$100. ([1 TEX. ADMIN. CODE §§ 20.1\(5\)](#) and [22.6](#))
  - The entity is not, however, required to file a campaign treasurer appointment form ([Form GTA](#)). These entities are not required to file disclosure reports if their expenditure(s) are disclosed elsewhere. ([TEX. ELECT. CODE § 254.261](#)).
  - Direct campaign expenditures under \$100 are not reportable by law ([TEX. ELECT. CODE § 254.261](#)).
  - PACs report direct campaign expenditures (i.e. independent expenditures) on their contribution and expenditure reports for the applicable period. ([TEX. ELECT. CODE §§ 254.031, 254.151](#)).
  - General Purpose PACs (“GPACs”) must also notify a candidate or officeholder if it accepts political contributions or makes political expenditures on behalf of the candidate or officeholder. ([TEX. ELECT. CODE § 254.161](#); [1 TEX. ADMIN. CODE § 20.421](#)).

However, these direct campaign expenditures must be made independently without coordinating with any other person, including other corporations and candidates whom the expenditure would support or oppose. ([TEX. ELECT. CODE § 254.261](#)).

The Texas Ethics Commission (“TEC”) by rule states that some evidence of coordination include meeting with candidates regarding campaign communications and events, sharing polling data and mailing lists, and exchanging drafts or final proofs of political advertising. Note that the coordination prohibition is not exclusive to working with candidates – it applies to coordinated activity between any two people. ([1 TEX. ADMIN. CODE § 22.6](#))

The only exception to the prohibition on coordination is the ability to form Direct Campaign Expenditure-Only PACs (Texas' name for Super PACs) which allow corporations to join together and pool money to make direct campaign expenditures.

### **Direct Campaign Expenditure-Only PACs (DCE-Only PAC)**

To operate as a DCE-Only PAC, the committee must file an affidavit with the Ethics Commission that states the intent to accept corporate contributions and that the PAC will not make direct contributions from that corporate money to candidates and officeholders as well as contributions to any PACs that do make contributions to candidates and officeholders. ([1 TEX. ADMIN. CODE § 22.5](#))

DCE-Only PACs may not accept any corporate contributions prior to filing with the commission.

After filing with the Commission, DCE-Only PACs may accept unlimited corporate contributions from outside sources and use the same contributions to make unlimited direct campaign expenditures in any race.

### **Social Welfare Organization Activity (501(c)(4)s)**

Instead of filing as a DCE-Only PAC some groups have instead set up 501(c)(4) social welfare organizations. Federal tax law allows unlimited lobbying activity for 501(c)(4)s and a significant amount of political activity as long as the activity is not the primary purpose of the organization. An organization's "primary purpose" is not explicitly defined in Federal tax law, but practitioners can find more information on the Federal rules for 501(c)(4) organizations in ["The Connection", a free guide from Bolder Advocacy.](#)

The Texas Ethics Commission states that political activity in Texas becomes an organization's "principal purpose" when the organization collects political contributions and the ratio to the total contributions into the organization is more than 25%. The same 25% threshold applies to expenditures made by the organization, and administrative expenses to collect the contributions and make the expenditures are included in the calculation. ([1 TEX. ADMIN. CODE §20.1\(20\)](#))

For example, if a 501(c)(4) collects a total of \$200,000 in contributions from all sources in a calendar year, no more than \$50,000 of the total \$200,000 can be from political contributions before the c4 must file with the state as a political action committee.

Likewise, if a 501(c)(4) spends a total of \$200,000 in overall expenditures throughout the year, the organization is limited to \$50,000 in political expenditures without having to file with the state as a political action committee.

## COMMUNICATIONS

### Issue Advocacy vs. Express Advocacy

- Only those communications containing express advocacy (as opposed to those that contain mere general issue advocacy) are required to include the statutory disclosure information, [discussed below](#).
- [TEX. ELECT. CODE § 255.001](#) establishes the disclosure requirements for political advertisements that contain “express advocacy.” The law does not define express advocacy, but does state that political advertising that is authorized by a candidate, an agent of a candidate, or a political committee filing reports under this title shall be deemed to contain express advocacy. ([TEX. ELECT. CODE § 255.001\(b\)](#)). Thus, a disclosure statement is required anytime one of the aforementioned entities authorizes a political advertisement.
- For political advertisements *not* authorized by a candidate, a candidate’s agent, or a political committee, the disclosure requirement depends on the precise language of the communication. A political advertisement will be considered to expressly advocate for the election or defeat of an identified candidate or the passage or defeat of a measure if it includes words or phrases such as “vote for,” “elect,” “defeat,” “support,” “reject,” or “Smith for Senate.”
- The relevant Texas definitions of “campaign contribution” and “campaign expenditure” both include the term “*in connection with a campaign for elective office or on a measure.*” ([TEX. ELECT. CODE §§ 251.001\(3\), \(7\)](#)). This phrase has been interpreted by both the Texas Supreme Court and the Texas Ethics Commission as being consistent with the federal interpretation of the express advocacy rule.<sup>1</sup> Thus, political advertisements that explicitly support or oppose a candidate for public office or a measure must contain the required statutory disclaimer. ([See below for disclosure requirements.](#))

### Member Communications

---

<sup>1</sup> See *Osterburg v. Peca*, 12 S. W. 3d 31 (Tex. 2000); and *In re: Ellis*, 279 S.W. 3d 1 (Tex. App. — Austin 2008, appl'n for mand. denied); Texas Ethics Commission Ethics Advisory Opin. 198 (1994).



- Communications of any kind (including express advocacy political communications) directly to a corporation’s stockholders or members (or to the families of the company’s stockholders or members) is not prohibited and is not reportable to the Texas Ethics Commission. ([TEX. ELECT. CODE § 253.098\(a\)](#)).
- Membership communications do *not* require a disclaimer.

**Electioneering Communications**

- Texas regulates only express advocacy communications, with no special disclosure rules for communications made near the time of the election (often referred to as “electioneering communications”). However, some communications containing issue advocacy may be required to carry disclaimer as “legislative advertising.” ([TEX. GOVT. CODE § 305.027](#)). [See below](#).

**Disclaimers**

- “Political Advertising” that supports or opposes a candidate for public office or a measure (i.e. contains “express advocacy” – [see above](#)) must carry a statutory disclaimer. Only certain types of communications in printed, published, broadcast, or internet media constitute political advertising. ([TEX. ELECT. CODE § 251.001\(16\)](#)).
- For qualifying political advertisements, the following disclaimer is required:

“Political Advertising Paid for by X”

(X to be full name of entity paying for the advertising). ([TEX. ELECT. CODE § 255.001](#)).

- Only certain mediums of communication require disclaimers:

	<b>Issue Advocacy*</b>	<b>Express Advocacy</b>
<b>Telephones</b>	No	Yes
<b>Internet</b>	No	Yes
<b>Email</b>	No	Yes^
<b>Television</b>	No*	Yes

<b>Radio</b>	No*	Yes
<b>Print</b>	No*	Yes
<b>Billboards</b>	No*	Yes
<b>Handbills</b>	No*	Yes
<b>Mail</b>	No*	Yes

\* Disclaimer or reporting would apply to some issue advocacy if it involves broadcast or printed communication supporting, opposing, or proposing legislation and it is: 1) paid for by a lobbyist (must be reported by lobbyist), or 2) published in return for consideration (must carry disclaimer). ([TEX. GOVT. CODE §§ 305.006\(c\), 305.027](#)). Personally produced handbills, mail or other publications that support or oppose legislation but are not published in return for consideration are not regulated.

^ Unless the email in question is sent only to an organization's membership and not to anyone outside of the organization. Corporate membership communications do not require disclaimers. ([TEX. ELECT. CODE § 255.001](#)).

- The following do not require disclaimers at any point:
  - Tickets or invitations to political fundraisers
  - Campaign buttons, pins, hats, or similar small campaign materials
    - Note that the commission does not specifically include yard signs in this exception. The thought process on these is anything that is too small to realistically have a disclaimer included.
  - Circulars or flyers that cost in the aggregate less than \$500 to publish and distribute
- Texas also requires “legislative advertising” to have a disclaimer. Legislative advertising is defined as a communication that supports, opposes, or proposes legislation. The following disclaimer is required:

“Legislative Advertising paid for by X on behalf of Y.”

(X being the person who actually enters into a contract with printer, publisher or broadcaster and Y being the individual or entity represented by X). Similarly, if the person who enters into the contract is also the person distributing the advertising, the disclaimer would read:

“Legislative Advertising paid for by X.”

([TEX. GOVT. CODE § 305.027](#)).

- See also special rules for political advertising disclaimers in judicial races. ([TEX. ELECT. CODE § 255.008](#)).

## COORDINATION

- Under the Judicial Fair Campaign Act, certain direct campaign expenditures by PACs and political parties that support a judicial candidate count against a judicial candidate's voluntary expenditure limits and the contribution limits of the person or PAC making the expenditure. ([TEX. ELECT. CODE §§ 253.163, 253.169, 253.170, 253.171](#)).

## REGISTRATION AND REPORTING REQUIREMENTS

### State PACs

- Types of Texas PACs
  - *General Purpose PAC (GPAC)*: A GPAC is defined as a committee that supports, opposes, or assists two or more *unidentified* candidates or ballot measures (i.e. a committee that supports candidates who oppose gambling). ([TEX. ELECT. CODE § 251.001\(14\)](#)). A GPAC may *only* make contributions to other GPACs that are listed on its registration form. ([TEX. ELECT. CODE § 253.037\(b\)](#)).
  - *Specific Purpose PAC (SPAC)*: An SPAC is defined as a committee that supports, opposes, or assists *identified* candidates seeking known office or *identified* ballot measures. ([TEX. ELECT. CODE § 251.001\(13\)](#)). ([TEX. ELECT. CODE §§ 253.031\(c\), 252.005\(1\)](#); [1 TEX. ADMIN. CODE § 20.401](#)).
- Registration of State PACs
  - All GPACs and those SPACs active in state races or statewide ballot measures are required to register with the Texas Ethics Commission. SPACs active only in municipal, county, or special district races and/or ballot measures need only file in the local jurisdiction in which they are active.
  - Registration requirements are generally the same for GPACs and SPACs (collectively "PACs"); however, each entity has its own set of forms available at <http://www.ethics.state.tx.us/main/forms.htm>. PACs may also register electronically at [http://www.ethics.state.tx.us/whatsnew/elf\\_filing\\_info.htm](http://www.ethics.state.tx.us/whatsnew/elf_filing_info.htm).

- Timing: Registration must occur *before* the PAC accepts more than \$500 in political contributions or makes more than \$500 in expenditures. It is unlawful to expend or accept more than \$500 without a treasurer designation on file. ([TEX. ELECT. CODE § 253.031](#)).
- A PAC must designate a treasurer, who need not be a Texas resident. ([TEX. ELECT. CODE § 253.031](#)). A PAC must also maintain a bank account or accounts segregated from non-PAC funds. ([TEX. ELECT. CODE § 253.040](#)). There is no requirement that the bank must be located in Texas.
- Reporting for State PACs
  - PACs, along with individuals, corporations, or labor unions spending more than \$100 (or groups of individuals spending more than \$500) for direct campaign expenditures during an election year must file disclosure reports on the below schedule. All disclosure reports must be [filed electronically](#) unless the disclosing entity is able to claim a statutory exemption.
  - During non-election years, only semi-annual reports must be filed. Note: Both GPACs and SPACs may choose an alternative reporting schedule than what is listed. For more information, see [http://www.ethics.state.tx.us/guides/pac\\_guide.pdf](http://www.ethics.state.tx.us/guides/pac_guide.pdf).
  - A PAC (including a GPAC sponsored by a nonprofit) must identify its contributors over \$50. ([TEX. ELECT. CODE § 254.156](#)). PACs must also report political expenditures that, in the aggregate, exceed \$100 during the reporting period. ([TEX. ELECT. CODE § 254.031\(a\)\(3\)](#)).
  - If a PAC accepts funds from outside Texas for a Texas election, it must report those political contributions in reports filed in Texas. See also reporting and filing rules for out-of-state PACS, [below](#).
  - *Reporting Schedule*
    - **Semi-Annual:** Due January 15 and July 15 of each year, regardless of whether a PAC has any activity during the reporting period. ([TEX. ELECT. CODE § 254.153](#); [1 TEX. ADMIN. CODE § 20.423](#)). Semiannual reports that are amended before the eighth day after the date the original report was filed is considered to be filed on the date the original report was filed. ([TEX. ELECT. CODE §§ 254.0405](#)).
    - **30-Day Pre-Election:** Due 30 days before an election *if* a PAC has activity during the reporting period. ([TEX. ELECT. CODE § 254.154](#); [1 TEX. ADMIN. CODE §](#)

[20.425](#)).

- **8-Day Pre-Election:** Required if 1) a PAC was required to file a 30-day pre-election report, *or* 2) a PAC makes expenditures during the reporting period. The report is due 8 days before an election. ([TEX. ELECT. CODE § 254.154](#); [1 TEX. ADMIN. CODE § 20.425](#)).
- **Special Pre-Election:**
  - The special pre-election period starts nine days before an election and ends at noon on the day before the election.
  - **GPACs:** Reports are due within 24-hours if, during the special pre-election reporting period, a GPAC: 1) receives a contribution from a person aggregating more than \$5,000 during the reporting period, *or* 2) makes more than \$1,000 in direct campaign expenditures supporting or opposing a single candidate, *or* 3) makes more than \$15,000 in direct campaign expenditures supporting or opposing a *group* of candidates. ([1 TEX. ADMIN. CODE § 20.435](#))
  - **SPACs:** During the special pre-election reporting period, an SPAC must report within 24-hours a contribution from a single source that totals more than \$1,000 during the reporting report. ([1 TEX. ADMIN. CODE § 20.333](#))

If the due date for a report falls on the weekend or a holiday, the report is due on the next regular business day.

- *Alternative Reporting for Certain GPACs*
  - GPACs with less than \$20,000 in one or more accounts in which political contributions or deposited, as of the last day of the preceding reporting period, are permitted to file reports containing the following information (in lieu of the information required under Sections 254.031(a)(1) and (5) and 254.151(6):
    - The amount of political contributions from each person that exceeds an aggregate \$100, including the date of contribution and the contributor's full name, address, and occupation; and

- The total amount of political contributions and expenditures made during that reporting period of \$100 or less. ([TEX. ELECT. CODE § 254.1541](#)).
- GPACs may opt to file Monthly Reports (in lieu of the reporting schedule under Sections 254.153 and 254.154), so long as the GPAC delivers written notice of its intent to do so between January 1 and January 15 of the year in which it intends to file monthly. ([TEX. ELECT. CODE § 254.155](#)). To review the contents and schedule of monthly reports, view Sections [254.156](#) and [254.157](#).

## Out-of-State PACs

- Registration of out-of-state PACs
  - An out-of-state PAC is not required to register as a Texas PAC, but must report its contributions or direct campaign expenditures (independent expenditures). An out-of-state PAC is defined as a committee that: 1) makes political expenditures outside Texas (including direct campaign expenditures); and 2) in the 12 months immediately preceding the making of a political expenditure by the committee inside Texas (other than an expenditure made in connection with a campaign for a federal office or made for a federal officeholder), makes 80 percent or more of the committee's total political expenditures in any combination of elections outside Texas. ([TEX. ELECT. CODE §§ 251.001\(15\)](#), [1 TEX. ADMIN. CODE § 20.13](#)). If 20 percent or more of an out-of-state PAC's total political expenditures are made on Texas elections, it must register as a Texas state PAC.
- Reporting for out-of-state PACs
  - An out-of-state PAC is required to report its Texas political activity in one of two ways:
    - An out-of-state PAC that files reports electronically in another jurisdiction may comply with Texas' reporting requirements by sending a letter to the Texas Ethics Commission detailing where the electronic report may be found on the website of the agency with which the out-of-state PAC is required to file its reports; *or*
    - An out-of-state PAC that does *not* file reports electronically in another jurisdiction may comply with Texas' reporting requirements by sending a copy of the cover sheets of the

report and a copy of each page on which the committee reports a contribution or expenditure accepted or made in connection with a state or local election in Texas.

([1 TEX. ADMIN. CODE § 20.13](#)).

- Out-of-state PACs active in Texas (contribution over \$500 to any one candidate) must submit the following to the Texas candidate or PAC receiving the contribution:
  1. A written statement, certified by an officer of the out-of-state committee, listing the full name and address of each person who contributed more than \$100 to the out-of-state committee during the 12 months immediately preceding the contribution, *or*
  2. A copy of the out-of-state PAC's statement of organization filed as required by law with the Federal Election Commission and certified by an officer of the out-of-state PAC.

([TEX. ELECT. CODE §§ 253.032](#), [251.001\(15\)](#), [251.005](#), and [254.1581](#)). See also modified submission option in [1 TEX. ADMIN. CODE § 22.7](#).

### **Texas PAC Administration**

- An affiliated corporation or union may pay for administrative expenses of a PAC that makes candidate or political party contributions. ([TEX. ELECT. CODE § 253.100](#)).
- A corporation may solicit for contributions to the PAC from its stockholders or members and their families. ([TEX. ELECT. CODE § 253.098](#)). However, neither a corporation nor a labor union may use its own funds to contribute directly to a PAC that makes candidate contributions. Nor may corporate funds be expended to solicit persons other than members, shareholders, and their families. In addition, no union dues or other funds obtained as a condition of employment may be used to make a political contribution or political expenditure. ([TEX. ELECT. CODE § 253.101](#)).

### **Termination**

- To terminate a PAC, file a Termination Report with the Texas Ethics Commission. ([TEX. ELECT. CODE § 254.127](#); [1 TEX. ADMIN. CODE § 20.417](#)).

## **ENFORCEMENT AND PENALTIES**

- Civil enforcement is by the Texas Ethics Commission and criminal enforcement by local prosecutors (county attorney or district attorney). In almost all cases, enforcement is complaint driven. TEC's only routine enforcement is for late filed reports. TEC randomly selects PACs and candidate filers for audit and may request changes and resubmission of reports or initiate enforcement action based on the findings. ([TEX. GOV. CODE § 571.069](#))
- Most TEC civil penalties relating to reporting violations range from \$100 to \$500 per violation. Most criminal violations of Texas Election Code are Class A misdemeanors, but violation of the corporate activity ban is a third degree felony. ([TEX. ELECT. CODE §§ 253.094, 253.101-104](#)).
- The Texas Election Code also provides for a private civil cause of action for damages in favor of candidates, PACs, and the State if an opponent or third-party violates certain provisions of the Texas Election Code. ([TEX. ELECT. CODE §§ 253.131-134](#)).

## BALLOT MEASURES

- A corporation or labor union may make unlimited contributions to a ballot measure SPAC (a PAC focusing exclusively on one or more identified ballot measure) without triggering registration or reporting requirements. ([TEX. ELECT. CODE § 253.096](#)).
- A corporation or union may make unlimited direct campaign expenditures (i.e. independent expenditures) for or against ballot measures but must report all activity that exceeds \$100. ([TEX. ELECT. CODE §§ 254.261](#)). See [Direct Campaign Expenditure section above](#) for reporting requirements.



## CONTACT INFORMATION FOR STATE AND LOCAL AGENCIES

### Texas Ethics Commission

Ian Steusloff, General Counsel  
201 East 14th Street, 10th Floor  
Austin, Texas 78701

<http://www.ethics.state.tx.us/tec>

Telephone: 512-463-5800  
1-800-325-8506

Legal, Administrative, Executive Division  
FAX: 512-463-5777  
Disclosure Filing FAX: 512-463-8808

### City of Austin

City Code of Ordinances, Chapter 2-2,  
Austin Fair Campaign Chapter  
City Charter, Article III, § 8 (Limits on  
Campaign Contributions and  
Expenditures  
[www.ci.austin.tx.us](http://www.ci.austin.tx.us)

### City of Dallas

City Code of Ordinances  
Chapter 15A, Article I  
“Campaign Contributions”  
[www.dallascityhall.com](http://www.dallascityhall.com)

### City of Houston

City Code of Ordinances  
Chapter 18, Art. IV “Limitations on  
Solicitations and Contributions”  
[www.houstontx.gov](http://www.houstontx.gov)

### City of San Antonio

City Code of Ordinances  
Article VII, “Municipal Campaign Finance  
Regulations”  
(Sec. 2.300-2.311)  
[www.sanantonio.gov](http://www.sanantonio.gov)

James E. Cousar, Thompson & Knight LLP, prepared the first edition of this factsheet. This edition has been revised and updated by Andrew Cates, Capitol Ethics Publishing LLC, 5910 Clementine Lane, Austin, TX 78744. © Copyright 2018. These materials are copyrighted and may not be reproduced without permission.

## FOR FURTHER ASSISTANCE

**For assistance regarding these resources or for more information about federal law, please contact our attorney one-on-one counseling service:**

Email: [advocacy@afj.org](mailto:advocacy@afj.org)  
Telephone: 1-866-NPLOBBY  
(675-6229)

**For assistance regarding state law in Texas, please contact:**

**Andrew Cates**  
Author, Texas Ethics Laws Annotated  
5910 Clementine Lane  
Austin, TX 78744  
[txethics@gmail.com](mailto:txethics@gmail.com)

